

UNITED STATES DISTRICT COURT  
DISTRICT OF MONTANA  
BUTTE DIVISION

UNITED STATES OF AMERICA, )  
Plaintiff, ) Case No. 2:15-cv-00072-SEH  
v. )  
 )  
 ) DEFENDANTS' ANSWER TO  
 ) COMPLAINT FOR PERMANENT  
 ) INJUNCTION  
(1) JAMES TARPEY; )  
(2) PROJECT PHILANTHROPY, INC. )  
d/b/a DONATE FOR A CAUSE; )  
(3) TIMESHARE CLOSINGS, INC. )  
d/b/a RESORT CLOSINGS, INC.; )  
(4) RON BROYLES; )  
(5) CURT THOR; and )  
(6) SUZANNE CROWSON )  
f/k/a SUZANNE TARPEY; )  
 )  
Defendants. )  
 )

James Tarpey (“James Tarpey”); Project Philanthropy, Inc. d/b/a Donate for a Cause (“DFC”); Timeshare Closings, Inc. d/b/a Resort Closings, Inc. (“RC”); and Suzanne Tarpey f/k/a Suzanne Tarpey-Crowson (“Suzanne Tarpey”)

1 (collectively as “Defendants”), by and through their attorneys Robert M.  
2 McCallum and Diane E. Tebelius, LeSourd & Patten, P.S., and Joel E. Silverman,  
3 Silverman Law Office, PLLC, hereby respond to the numbered allegations of the  
4 Plaintiff’s Complaint for Permanent Injunction And Other Relief as follows:

5  
6 **Nature of the Action**  
7

8 1. Deny.  
9  
10 2. Deny.  
11  
12 3. Defendants presently lack information or knowledge sufficient to form a  
13 belief as to the truth of the allegation that the IRS estimates that since 2010,  
14 defendants have caused customers to donate 5,523 timeshares to this scheme and  
15 that the IRS has reviewed 2,994 of these customers’ files. Defendants deny that  
16 defendants have caused more than \$19.4 million in improper tax deductions for the  
17 timeshares alone.

18  
19 4. Admits that the United States brings this case pursuant to 26 U.S.C.  
20  
21 §§ 7402 and 7408.

22  
23 5. Defendants do not have information or knowledge sufficient to form a  
24 belief as to the statements that the action for injunctive relief is brought at the  
25 request of the Chief Counsel of the Internal Revenue Service, a delegate of the  
26  
27

1 Secretary of the Treasury, and commenced at the direction of a delegate of the  
2 Attorney General of the United States.  
3

4 **Jurisdiction and Venue**

5 6. Admit.  
6

7 7. Admit.  
8

9 **Defendants**

10 8. Admits that James Tarpey resides in Bozeman, Montana. Tarpey  
11 graduated from DePaul University in Chicago and obtained his law degree from  
12 the University of Denver in 1998 and that James Tarpey is subject to this Court's  
13 jurisdiction pursuant to Mont. R. Civ. P. 4(b)(1) because he resides in this judicial  
14 district. Deny that James Tarpey is the architect of this timeshare donation  
15 scheme, has promoted it to others, and has reaped substantial financial gain from  
16 selling and operating it.

19 9. Admit all allegations in paragraph except deny that DFC functions and  
20 communicates through Tarpey and other individuals.  
21

22 10. Deny all of the allegations as Timeshare Closings, Inc. dba Resort  
23 Closings, Inc., was sold in December 2013 whereby a new Montana corporation  
24 was organized under the business name of Resort Closings, Inc. The new  
25 corporation is not owned by any of the Defendants.  
26

1           11. Admit that Ron Broyles is a real estate appraiser who resides in San  
2 Rafael, California; denies that Broyles is an appraiser for DFC as Broyles was  
3 never hired by DFC; and presently lack information or knowledge sufficient to  
4 form a belief as to the truth of the remaining allegations in paragraph  
5

6           12. Deny that Ron Broyles was hired by DFC and presently lack  
7 information or knowledge sufficient to form a belief as to the truth of the  
8 remaining allegations and therefore deny the allegations.  
9

10           13. Admit that Curt Thor is a real estate appraiser residing in Bellingham,  
11 Washington but presently lacks information or knowledge sufficient to form a  
12 belief as to the truth of the remaining allegations.  
13

14           14. Deny that Curt Thor worked for DFC and presently lacks information or  
15 knowledge sufficient to form a belief as to the truth of the remaining allegations.  
16

17           15. Deny that Suzanne Tarpey prepared any appraisals for DFC but admit  
18 the remaining allegations in paragraph 15.  
19

20           **Overview of the Timeshare Donation Scheme**

21           16. Deny.  
22

23           17. Admit that this is a statement about timeshares although do not admit  
24 that this is the entire or complete legal description of time share ownership.  
25

26           18. Admit.  
27

1 19. Deny.

2 20. Deny.

3 21. Deny.

4 22. Deny.

5 23. Deny.

6 24. Deny.

7 25. Deny.

8 26. Deny.

9 27. Admits that DFC issues two donation acknowledgement letters upon  
10 receipt of a timeshare but denies the remaining allegations.

11 28. Deny.

12 29. Deny the statement that “once the timeshare is accepted into the  
13 scheme” but admit the remaining allegations.

14 30. Deny.

15 31. Deny.

16 32. Deny.

17 **Defendants' Role in the Scheme**

18 33. Deny.

1           34. Admit that an entity titled Donate for a Cause, Inc. was organized in  
2 2004; denies the implication that said entity is the same entity that operated from  
3 2010 to the present.

5           35. Admit that tax-exempt status was applied for DFC but unclear as to  
6 date; denies the implication that said entity is the same entity that operated from  
7 2010 to the present.

9           36. As Defendants cannot recall the exact reasons behind the denial, they  
10 presently lack information or knowledge sufficient to form a belief as to the truth  
11 of the remaining allegations and therefore deny the allegations.

13           37. Deny.

15           38. Deny.

17           39. Presently lack information or knowledge sufficient to form a belief as to  
18 the truth of the remaining allegations and therefore deny the allegations.

19           40. Deny.

21           41. Deny.

22           42. Admit that Tarpey has appraised some time shares but because the exact  
23 figures cannot be affirmed, presently lack information or knowledge sufficient to  
24 form a belief as to the truth of the remaining allegations and therefore deny the  
25 allegations.

43. Deny.

44. Presently lack information or knowledge sufficient to form a belief as to the truth of the remaining allegations and therefore deny the allegations.

45. Presently lack information or knowledge sufficient to form a belief as to the truth of the remaining allegations and therefore deny the allegations.

46. Presently lack information or knowledge sufficient to form a belief as to the truth of the remaining allegations and therefore deny the allegations.

47. Presently lack information or knowledge sufficient to form a belief as to the truth of the remaining allegations and therefore deny the allegations.

48. Presently lack information or knowledge sufficient to form a belief as to the truth of the remaining allegations and therefore deny the allegations.

49. Admit.

## **Defendants' Timeshare Donation Scheme Flagrantly Abuses the Internal Revenue Laws**

50. Defendants neither admit nor deny because the allegation in paragraph 50 is a legal statement from the Plaintiffs to its understanding of Section 170 of the Internal Revenue Code. To the extent that it is not a legal statement, presently lack information or knowledge sufficient to form a belief as to the truth of the remaining allegations and therefore deny the allegations.

1 51. Deny.

2 52. Deny.

3 53. Deny.

4 54. Presently lack information or knowledge sufficient to form a belief as to  
5 the truth of the remaining allegations and therefore deny the allegations.  
6

7 55. Presently lack information or knowledge sufficient to form a belief as to  
8 the truth of the remaining allegations and therefore deny the allegations.  
9

10 56. Presently lack information or knowledge sufficient to form a belief as to  
11 the truth of the remaining allegations and therefore deny the allegations.  
12

13 **Defendants Are Excluded by Law from Preparing Appraisals**  
14 **for Property Donated to Donate for a Cause**

15 57. Deny.

16 58. Deny.

17 59. Deny.

18 60. Deny.

19 61. Deny.

20 62. Deny.

21 63. Deny.

22 64. Deny.

## **Defendants Use Phony Methods to Value Donated Property**

65. In that paragraph 65 is a legal statement, presently lack information or knowledge sufficient to form a belief as to the truth of the remaining allegations and therefore deny the allegations.

## 66. Deny.

67. Deny.

68. Deny.

69. Deny.

### 70. Deny.

71. Deny.

72. Presently lack information or knowledge sufficient to form a belief as to the truth of the remaining allegations and therefore deny the allegations.

73. Presently lack information or knowledge sufficient to form a belief as to the truth of the remaining allegations and therefore deny the allegations.

74. Presently lack information or knowledge sufficient to form a belief as to the truth of the remaining allegations and therefore deny the allegations.

75. Deny.

## Defendants' Appraisals Contain Errors and Omit Mandatory Information

76. Deny.

1 77. Deny.

2 78. Deny.

3 79. Deny.

4 80. Deny.

5 81. Deny.

6

7 **Additional Abusive Characteristics of Defendants' Timeshare**  
**Donation Scheme**

8 82. Deny.

9 83. Deny.

10 84. Deny.

11 85. Deny.

12 86. Presently lack information or knowledge sufficient to form a belief as to

13 the truth of the remaining allegations and therefore deny the allegations.

14

15 **Defendants Know or Have Reason to Know**  
**That the Timeshare Donation Scheme Was Bogus**

16 87. Deny.

17 88. Deny.

18 89. Deny.

19

20 **Examples of Defendants' Timeshare Donation Scheme**

21 90. Deny.

1           91. Presently lack information or knowledge sufficient to form a belief as to  
2 the truth of the remaining allegations and therefore deny the allegations.  
3

4           92. Presently lack information or knowledge sufficient to form a belief as to  
5 the truth of the remaining allegations and therefore deny the allegations.  
6

7           93. Deny.  
8

9           94. Presently lack information or knowledge sufficient to form a belief as to  
10 the truth of the remaining allegations and therefore deny the allegations.  
11

12           95. Presently lack information or knowledge sufficient to form a belief as to  
13 the truth of the remaining allegations and therefore deny the allegations.  
14

15           96. Deny.  
16

17           97. Presently lack information or knowledge sufficient to form a belief as to  
18 the truth of the remaining allegations and therefore deny the allegations.  
19

20           98. Presently lack information or knowledge sufficient to form a belief as to  
21 the truth of the remaining allegations and therefore deny the allegations.  
22

23           99. Deny.  
24

25           **Defendants Marketed and Promoted the Timeshare Donation Scheme**  
26

27           100. Deny.  
28

29           101. Admit that the websites were used by Defendants but deny that the use  
30 of the website was to promote a timeshare donation scheme.  
31

1 102. Deny.

2 103. Deny.

3 104. Deny.

4  
5 105. Admit that James Tarpey appeared on the news features broadcast on  
6 the listed stations but deny any and all other allegations as stated in paragraph 105.  
7

8 106. Admit.

9 107. Deny.

10 108. Deny.

11 109. Deny.

12  
13 **Harm to the Government and the Public**

14 110. Deny.

15  
16 111. Presently lack information or knowledge sufficient to form a belief as  
17 to the truth of the remaining allegations and therefore deny the allegations.  
18

19 112. Deny.

20  
21 113. Presently lack information or knowledge sufficient to form a belief as  
22 to the truth of the remaining allegations and therefore deny the allegations.  
23

24  
25 114. Presently lack information or knowledge sufficient to form a belief as  
26 to the truth of the remaining allegations and therefore deny the allegations.  
27

1 115. Presently lack information or knowledge sufficient to form a belief as  
2 to the truth of the remaining allegations and therefore deny the allegations.  
3

4 116. Presently lack information or knowledge sufficient to form a belief as  
5 to the truth of the remaining allegations and therefore deny the allegations.  
6

7 117. Deny.  
8

9 118. Deny.  
10

11 119. Deny.  
12

13 120. Deny.  
14

15 121. Deny.  
16

17 122. Deny.  
18

19 123. Deny.  
20

21 124. Deny.  
22

23 125. Deny.  
24

19 **COUNT I**  
20

21 **Injunction Against All Defendants**  
22 **Under 26 U.S.C. § 7408 Engaging in Conduct**  
23 **Subject to Penalty Under 26 U.S.C. § 6700**  
24

25 126. Deny as paragraph 126 is a legal statement.  
26

27 127. Deny as paragraph 127 is a legal statement.  
28

128. Deny as paragraph 128 is a legal statement.

1 129. Deny.

2 130. Deny.

3 131. Deny.

4 132. Deny.

5 133. Deny.

6 134. Deny.

7 135. Deny.

8

9

10

11 **COUNT II**

12

13 **Injunction Against All Defendants**

14 **Under 26 U.S.C. § 7408 Engaging in Conduct**

15 **Subject to Penalty Under 26 U.S.C. § 6701**

16 136. Deny as paragraph 136 is a legal statement.

17 137. Deny as paragraph 137 is a legal statement.

18 138. Deny.

19 139. Deny.

20 140. Deny.

21

22 **COUNT III**

23

24 **Injunction Against All Defendants**

25 **Under 26 U.S.C. § 7402 Engaging in Conduct**

26 **Subject to Penalty Under 26 U.S.C. § 6695A**

27 141. Deny as paragraph 141 is a legal statement.

1 142. Deny as paragraph 142 is a legal statement.

2 143. Deny.

3 144. Deny.

4 145. Deny.

5 146. Deny as paragraph 146 is a legal statement.

6 147. Deny.

7

8 **COUNT IV**

9

10 **Injunction Against All Defendants Under 26 U.S.C. § 7402**

11 **For Unlawful Interference with the Administration and**

12 **Enforcement of Internal Revenue Laws**

13

14 148. Deny as paragraph 148 is a legal statement.

15 149. Deny.

16 150. Deny.

17 151. Deny.

18 152. Deny.

19 153. Deny.

20 154. Deny.

21 ///

22 ///

## **Affirmative Defense**

## First Defense

The complaint fails to state a claim upon which relief can be granted and fails to state a cause of action against the Defendants.

## Second Defense

The statute of limitations under 26 U.S.C. §§ 6700 and 7408 has expired.

## Third Defense

The statute of limitations under 26 U.S.C. §§ 6701 and 7408 has expired.

## Fourth Defense

The statute of limitations under 26 U.S.C. §§ 6695a and 7402(a) has expired.

## Fifth Defense

The statute of limitations under 26 U.S.C. §§ 7402(a) has expired.

## Sixth Defense

Defendants assert good faith in all of the transactions at issue in the Complaint.

WHEREFORE, Defendants respectfully request that this Court dismiss the Plaintiff's complaint with prejudice and award such other relief as is deemed proper.

DEFENDANTS' ANSWER TO COMPLAINT  
FOR PERMANENT INJUNCTION  
Case No. 2:15-cv-00072-SEH  
22485\000\61386

1 DATED this 22nd day of January, 2016.  
2

3 /s/ Robert M. McCallum  
4

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 22, 2016, I filed the Defendants' Answer to Complaint for Permanent Injunction with the Clerk of Court using the ECF system which will send notice to all registered parties or their representatives, including:

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